

CAP MEETING – 9 OCTOBER 2024**ITEM 8.1**

DEVELOPMENT NO.:	24011855
APPLICANT:	David Ellis
ADDRESS:	108 LONGWOOD RD, HEATHFIELD
NATURE OF DEVELOPMENT:	Store building for the storage of equipment and vehicles including the parking of a truck and trailer exceeding 3000kg in weight
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Productive Rural Landscape Zone & Rural Neighbourhood Zone <p>Overlays:</p> <ul style="list-style-type: none"> • Environment and Food Production Area • Hazards (Bushfire - High Risk) (High) • Hazards (Flooding - Evidence Required) • Limited Land Division • Mount Lofty Ranges Water Supply Catchment (Area 2) • Native Vegetation • Prescribed Wells Area • Regulated and Significant Tree • Scenic Quality • Water Resources
LODGEMENT DATE:	13 May 2024
RELEVANT AUTHORITY:	Assessment Panel at Adelaide Hills Council
PLANNING & DESIGN CODE VERSION:	2024.8
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Sebastien Paraskevopoulos Statutory Planner
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Council Engineering

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DETAILED DESCRIPTION OF PROPOSAL:

The proposal is for the construction of a shed to be used as a store for equipment and vehicles associated with the landowners' business, *S.A. Tree Services*. The business offers residential and commercial tree services including but not limited to tree and stump removal, pruning, mulching, and maintenance. Their fleet includes a 3.5 tonne truck, 3.5 tonne woodchipper, stump grinder, mini excavator, and two trailers, along with a log splitter and hand tools. The equipment is not proposed to be used on site. Proposed hours of operation are Monday to Saturday, between 7am and 5pm, with vehicle startup and movement contained within those times. Occasionally, an employee may travel to the subject land to assist with loading of equipment for the day's work and would utilise one of five off-street car parks available on the land. Timber and mulch are sometimes reclaimed for use at the subject land, although this has been described as for domestic use only.

The proposed store building has a total floor area of 124.2m², with a maximum building height of 4.78m to the roof peak, with 3.9m high walls. It features two 3.49m high roller door entrances to the south elevation for vehicle and equipment access, with two windows and a pedestrian access door to its west elevation. Its walls and roof would be clad in Colorbond steel in the colour 'Woodland Grey'.

The proposal would accompany an existing dwelling and outbuildings on the subject land. The store is proposed to the centre-north of the subject land, to the east of the dwelling. It is 11.8m from this dwelling, 12.8m from the northern boundary, and 21.1m from the closest point of the eastern boundary. To achieve a level site area for the building, excavation and filling of the land up to 1m is anticipated, which would be retained through a combination of retaining walls and batters.

BACKGROUND:

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
01/03/2024	23035896	Land division - boundary re-alignment (2 into 2) with 106 Longwood Road, Heathfield

SUBJECT LAND & LOCALITY:

Location reference: 108 Longwood Road, Heathfield SA 5153

Title reference: 5148/859 **Plan Parcel:** DP 35265 **Council:** Adelaide Hills Council

Site Description:

The subject land is best described as an irregular shaped 'hammerhead' allotment, with its access handle presenting the lone frontage to Longwood Road. It spans two zones, the *Productive Rural Landscape Zone* and the *Rural Neighbourhood Zone*, although the latter zone only applies to the portion of land forming the access handle. It has a total area of 8,389m², with a maximum depth and width of 140.38m and 92.24m, respectively. Access to the proposal would be provided via a 3m wide driveway approximately 120m long, covered with 90mm blue stone gravel as a road base.

The slope of the land descends away from Longwood Road, descending northeast to southwest, with gradients varying between 1-in-15 and as steep as 1-in-3. The site area of the proposed store building has a gradient of approximately 1-in-7, which is part of a more level area of the subject land also occupied by the dwelling and ancillary outbuildings.

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Native vegetation, primarily in the form of stringybark trees, occupies large portions of the site -particularly in its southeastern half where existing development is absent. There is also a seasonal watercourse present, which traverses through the bottom south corner of the allotment.

Locality

The subject land interfaces with both the *Productive Rural Landscape Zone* and the *Rural Neighbourhood Zone* and is part of the locale's rural fringe adjoining the living areas of Heathfield. Most of the allotments which front Longwood Road are zoned Rural Neighbourhood. These are generally regularly shaped, between 2,000-3,000m² in area, and predominantly residential in nature. Behind these allotments is the Productive Rural Landscape Zone. Here, allotments are much larger, up to 10ha in area, generally comprising of a lone dwelling and large stands of mature native vegetation with some introduced species. Despite the prescribed nature of the zone, primary production activities are mostly absent. This contributes to a unique rural character, defined by a sense of space and openness emphasised by a heavily vegetated landscape.

There are no Local or State Heritage listed places in direct proximity of the subject land or the greater locale.

The subject land is identified on **Attachment 2 – Subject Land/Representation Map**. The zoning is shown on the map in **Attachment 3 – Zoning Map**.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**

Store: Code Assessed – Performance Assessed

Parking of vehicle exceeding 3000kg in weight: Code Assessed – Performance Assessed

- **OVERALL APPLICATION CATEGORY:**

Code Assessed – Performance Assessed

- **REASON**

The Planning and Design Code provides no 'Accepted' or 'Deemed to Satisfy' pathway for the above elements – nor are they categorised as 'Restricted' under Table 4 of the zone. Therefore, as per sections 105 (b) and 107 of the Planning Development & Infrastructure Act 2016, the development is categorised as Code Assessed – Performance Assessed.

PUBLIC NOTIFICATION

- **REASON**

The parking of a heavy vehicle is not listed under Table 5 of the Productive Rural Landscape Zone as being exempt from public notification. Further, while stores are listed as exempt from public notification, the proposal was excluded as per Column B of Table 5 due to the size of the subject land and the proposed building's setback from boundaries and sensitive receivers.

Public notification was undertaken between 1 August – 21 August 2024

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• LIST OF REPRESENTATIONS

Two (2) representations in support of the development (with some concerns) were received during the public notification period.

Representor Name	Representor's Property Address	Wishes to be heard (Y/N)	Nominated Speaker (if relevant)
Grame Haines	PO Box 196, Aldgate	N	
Chris and Caroline Newton	106 Longwood Road, Heathfield	Y	

• SUMMARY

The issues contained in the representations can be briefly summarised as follows:

- Noise of chainsaws and other equipment.
- Hard waste management.
- Vehicle movements including allegations of dangerous driving.
- Dust from truck and movement of equipment.
- Fire risk due to use of machinery on site and storage of timber/mulch.
- Unapproved business operations.
- Poor management of employees.
- Misrepresentation of equipment used on site.
- Increased traffic and occasional Sunday operations contrary to documentation.

A copy of the representations are included as **Attachment 4 – Representations** and the applicant's response is provided in **Attachment 5 – Response to Representations**.

AGENCY REFERRALS

Nil

INTERNAL REFERRALS

- **Council Engineering** - Council Engineering reviewed the proposal and had no objections to the existing access point being used to facilitate vehicle movements.

PLANNING ASSESSMENT

Desired outcomes

Desired outcomes are policies designed to aid the interpretation of performance outcomes by setting a general policy agenda for a zone, subzone, overlay or general development policies module. Where a relevant authority is uncertain as to whether or how a performance outcome applies to a development, the desired outcome(s) may inform its consideration of the relevance and application of a performance outcome or, assist in assessing the merits of the development against the applicable performance outcomes collectively.

Performance outcomes

Performance outcomes are policies designed to facilitate assessment according to specified factors, including land use, site dimensions and land division, built form, character and hazard risk minimisation.

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Designated performance features

In order to assist a relevant authority to interpret the performance outcomes, in some cases the policy includes a standard outcome which will generally meet the corresponding performance outcome (a designated performance feature or DPF). A DPF provides a guide to a relevant authority as to what is generally considered to satisfy the corresponding performance outcome but does not need to necessarily be satisfied to meet the performance outcome and, does not derogate from the discretion to determine that the outcome is met in another way, or from the need to assess development on its merits against all relevant policies.

A detailed assessment of the application has taken place against the relevant provisions of the Planning and Design Code (P & D Code) and this is provided below under a series of headings. A Policy Enquiry extract containing the relevant provisions of the P & D Code is contained in **Attachment 6 – Relevant P & D Code Policies**.

Productive Rural Landscape Zone

Desired Outcomes	
DO1	A diverse range of land uses at an appropriate scale and intensity that capitalise on the region's proximity to the metropolitan area and the tourist and lifestyle opportunities this presents while also conserving the natural and rural character, identity, biodiversity and sensitive environmental areas and scenic qualities of the landscape.
DO2	A zone that promotes agriculture, horticulture, value adding opportunities, farm gate businesses, the sale and consumption of agricultural based products, tourist development and accommodation that expands the economic base and promotes its regional identity.
DO3	Create local conditions that support new and continuing investment while seeking to promote co-existence with adjoining activities and mitigate land use conflicts.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO 1.1 & DPF 1.1 PO 2.1 & DPF 2.1, PO 2.2 & DPF 2.2, PO 4.1 & DPF 4.1, PO 4.2, PO 4.3 & DPF 4.3, PO 11.1	

The use of the proposed shed as a store is not captured within the anticipated land uses of DPF 1.1, nor is it a form of primary production, horticulture (including any associated value adding of the two), retailing, or tourism. While the proposal does not support, protect, or maintain any of these activities, it is not considered to be a type of land use which would be sensitive to them. Neither does it supplant any existing primary production use of the land, which would struggle for viability in the future on an allotment of such size. While it is not emblematic of what is envisaged by PO 1.1, the proposal is not considered to be seriously at variance with it.

Although the slope of the proposed site area is greater than 10% (1-in-10), excavation of the land would not exceed 1.5m from natural ground level, as advised by DPF 2.2 (b). The sum of the earthworks is in direct proximity of the store building, internal to the site, and would not be visible from the roadside. As such, the associated earthworks are considered to meet PO 2.2.

The storage to be provided by the proposal is not directly associated to any primary production activity on the land, while the allotment is below 2ha in size. Both of these features are envisaged by DPF 4.1 (a) and (b), albeit the floor area of the proposal is well below the maximum 350m² permitted by DPF 4.1 (c). While store buildings are anticipated to be in association with primary production activities by PO 4.1, the proposal's small scale (representing a site coverage of less than 1.5 per cent) and support of a local business conforms thematically with the PO, which seeks diversification of land use opportunities. On this basis, the proposal is not considered to be at serious variance with PO 4.1

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The proposal does not constitute either an expansion of an existing or new large scale storage activity, while the services offered by the business are conducted wholly offsite. Therefore, PO 4.2 is considered not applicable.

DPF 4.3 (a) and (b) direct that storage buildings be setback from all road and allotment boundaries by 50m, and 100m from sensitive receivers to maintain rural function and character and in a manner that respects landscape amenity, as PO 4.3 seeks. While Longwood Road is over 100m from the site area, the proposal is within 50m of at least two boundaries, and within 100m of the dwelling of 106 Longwood Road, contrary to the two performance features. The other two items, DPF 4.3 (c) and (d) are satisfied by the proposal, which has a roof height well below the 10m maximum and incorporates vehicle manoeuvring within the confines of the allotment. The use itself is limited to the storage of vehicles and equipment, in a moderate sized building located well away from the roadside. Its scale and intensity are commensurate with the subject land and is sited in a manner that preserves the rural character and landscape amenity of the area. As such, PO 4.3 is considered to be met but conditions of use are recommended to maintain the rural character and amenity (refer conditions 5 to 12).

While it is arguable whether the proposed store building qualifies as a 'large building' in a zone where agricultural sheds can be 350m² and categorised as *Deemed to Satisfy*, the proposal would accord with PO 11.1. It is sited well away from Longwood Road behind neighbouring dwellings and outbuildings. This location, combined with the topography of the locality and vegetation on the road verge and private property, would result in extremely limited public vantages of the building –if any at all. Further, the visual extent of the building when viewed from private land would be broken-up and partially obscured by existing mature vegetation on both the subject land and neighbouring allotments to its north and east, while its profile would also be reduced from the east vantage due to a benched level 1m below the natural ground. It is recognised that clustering the proposal near the existing dwelling and outbuildings provides its own value, by ensuring that the majority of the allotment remains open in appearance.

Overlays

Environment and Food Production Area Overlay

Desired Outcomes	
DO 1	Protection of valuable rural, landscape, environmental and food production areas from urban encroachment.
Performance Outcome (PO) and Designated Performance Feature (DPF) criteria	
N/A	

This overlay concerns urban encroachment and seeks to ensure land division is undertaken in accordance with Section 7 of the *Planning, Development and Infrastructure Act 2016*. This is not applicable to the proposal.

Hazards (Bushfire - High Risk) Overlay

Desired Outcomes	
DO 1	Development, including land division is sited and designed to minimise the threat and impact of bushfires on life and property with regard to the following risks: <ul style="list-style-type: none">(a) potential for uncontrolled bushfire events taking into account the increased frequency and intensity of bushfires as a result of climate change(b) high levels and exposure to ember attack(c) impact from burning debris(d) radiant heat(e) likelihood and direct exposure to flames from a fire front.

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DO 2	Activities that increase the number of people living and working in the area or where evacuation would be difficult is sited away from areas of unacceptable bushfire risk.
DO 3	To facilitate access for emergency service vehicles to aid the protection of lives and assets from bushfire danger.
Performance Outcome (PO) and Designated Performance Feature (DPF) criteria	
PO 1.1; PO 2.1; PO 3.1; PO 3.2 & DPF 3.2; PO 6.1 & DPF 6.1; PO 6.2 & DPF 6.2; PO 6.3;	

The proposed development would not introduce any new residential or habitable land uses to the subject land, and is not of a type which would significantly increase the potential for fire outbreak from the spontaneous combustion of materials, spark generation or through the magnification and reflection of light. The building is not considered to be located in an area which could pose an abnormally high bushfire risk, while the design of the building would not be prone to trapping flammable debris. Relevant PO 1.1, PO 2.1 and 3.1 are satisfied.

There is no expectation under this Hazard Overlay that access for CFS fire-fighting personnel is required for non-habitable buildings. As such, PO 6.1, 6.2, and 6.3 are not applicable.

Hazards (Flooding - Evidence Required) Overlay

Desired Outcomes	
DO 1	Development adopts a precautionary approach to mitigate potential impacts on people, property, infrastructure and the environment from potential flood risk through the appropriate siting and design of development.
Performance Outcome (PO) and Designated Performance Feature (DPF) criteria	
PO 1.1 & DPF 1.1, PO 2.1 & DPF 2.1	

There is no flood mapping on or in proximity of the subject land, nor the greater locality.

Limited Land Division Overlay

Desired Outcomes	
DO 1	The long term use of land for primary production is maintained by minimising fragmentation through division of land.
Performance Outcome (PO) and Designated Performance Feature (DPF) criteria	
N/A	

This overlay pertains to land division and is not applicable to the proposal.

Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay

Desired Outcomes	
DO 1	Safeguard Greater Adelaide's public water supply by ensuring development has a neutral or beneficial effect on the quality of water harvested from secondary reservoirs or diversion weir catchments from the Mount Lofty Ranges.
Performance Outcome (PO) and Designated Performance Feature (DPF) criteria	
PO 1.1; PO 2.1 & DPF 2.1; PO 2.3 & DPF 2.3; PO 2.4 & DPF 2.4; PO 2.5 & DPF 2.5; PO 3.1; PO 3.2; PO 3.3; PO 3.9 & DPF 3.9; PO 4.1	

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Mapping in the *South Australian Property & Planning Atlas* indicates that this Overlay is only present in the top half of the handle of the site and is otherwise absent in the site area of the proposed development. While this overlay is largely not applicable, it is acknowledged that the operation would not generate any wastewater -including from washdown of vehicles, which will be undertaken at a commercial carwash off site. Roof water is capable of being managed on site, with overflows migrating to a seasonal watercourse at the south corner of the allotment.

Native Vegetation Overlay

Desired Outcomes	
DO 1	Areas of native vegetation are protected, retained and restored in order to sustain biodiversity, threatened species and vegetation communities, fauna habitat, ecosystems services, carbon storage and amenity values.
Performance Outcome (PO) and Designated Performance Feature (DPF) criteria	
PO 1.1 & DPF 1.1; PO 1.2; PO 1.4	

The proposed location of the shed has been informed by the advice of an accredited consultant endorsed by the Native Vegetation Council. Three messmate stringybark trees are to be removed to make way for the proposal, however, these trees encroach within the 20m asset protection zone of the dwelling and are exempt from requiring clearance approval under the *Native Vegetation Regulations 2017*. The 10m asset protection zone of the proposed building would not extend to include any protected tree (thereby making them eligible for clearance), meaning that all currently protected trees would remain as such. The nature of native vegetation removal therefore complies with PO 1.1, while the remaining POs are not applicable.

Prescribed Wells Area Overlay

Desired Outcomes	
DO 1	Sustainable water use in prescribed wells areas.
Performance Outcome (PO) and Designated Performance Feature (DPF) criteria	
PO 1.1	

The proposal would not result in the taking of additional water for which a licence would be required under the *Landscape South Australia Act 2019*, which aligns with PO 1.1.

Regulated and Significant Tree Overlay

Desired Outcomes	
DO 1	Conservation of regulated and significant trees to provide aesthetic and environmental benefits and mitigate tree loss.
Performance Outcome (PO) and Designated Performance Feature (DPF) criteria	
PO 1.1; PO 1.2; PO 1.3; PO 1.4; PO 2.1	

Like the Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay, mapping in the *South Australian Property & Planning Atlas* indicates that this Overlay is only applicable to the handle of the site and is otherwise absent in the site area of the proposed development. In the area of the subject land where this overlay is applicable, no tree removal or pruning is proposed.

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Scenic Quality Overlay

Desired Outcomes	
DO 1	Development complements natural and rural character, and areas of scenic value.
Performance Outcome (PO) and Designated Performance Feature (DPF) criteria	
PO 1.1; PO 2.1; PO 3.1 & DPF 3.1; PO 4.1 & DPF 4.1	

The land use of the proposal is not considered to be inconsistent with what is envisaged by PO 1.1. The building's moderate size, which is limited to the storage of vehicles and equipment for the landowners' business, is complementary of the rural character of the area.

Further, the proposal's siting away from the public vantage, modest dimensions and height, recessive colour selection, limited vegetation removal, and discreet earthworks all contribute to satisfying PO 2.1.

No landscaping is proposed as part of the proposal, meaning that PO 3.1 is not applicable.

Although the proposed earthworks exceed 750mm in height and are at variance with DPF 4.1, the associated retaining walls are not considered to be at variance with PO 4.1. The wall height is relatively modest, exceeding DPF 4.1 by slightly over one sleeper's width, while the length of the walls would not be prominent from either the public vantage or neighbouring 106 Longwood Road.

Water Resources Overlay

Desired Outcomes	
DO 1	Protection of the quality of surface waters considering adverse water quality impacts associated with projected reductions in rainfall and warmer air temperatures as a result of climate change.
DO 2	Maintain the conveyance function and natural flow paths of watercourses to assist in the management of flood waters and stormwater runoff.
Performance Outcome (PO) and Designated Performance Feature (DPF) criteria	
PO 1.1; PO 1.2; PO 1.3; PO 1.4; PO 1.5 & DPF 1.5; PO 1.6; PO 1.7; PO 1.8; PO 1.9	

A small seasonal water course enters and exits through the bottom south corner of the allotment, over 70m from the site area of the proposal. It would likely receive roof water from the building not dispersed on site, although its function and natural flow path would not be interfered with by the development, which broadly satisfies all applicable Performance Outcomes of the Overlay.

GENERAL DEVELOPMENT POLICIES

Clearance from Overhead Powerlines

Desired Outcomes	
DO1	Protection of human health and safety when undertaking development in the vicinity of overhead transmission powerlines.
Performance Outcome (PO) and Designated Performance Feature (DPF) criteria	
PO 1.1 & DPF 1.1	

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A declaration was made by the applicant upon submission of the application that the proposal would not be contrary to the regulations prescribed for the purposes of section 86 of the Electricity Act 1996. On this basis the proposal is in accordance with the above provisions.

Design

Desired Outcomes	
DO1	Development is: (a) contextual - by considering, recognising and carefully responding to its natural surroundings or built environment and positively contributing to the character of the immediate area (b) durable - fit for purpose, adaptable and long lasting (c) inclusive - by integrating landscape design to optimise pedestrian and cyclist usability, privacy and equitable access and promoting the provision of quality spaces integrated with the public realm that can be used for access and recreation and help optimise security and safety both internally and within the public realm, for occupants and visitors (d) sustainable - by integrating sustainable techniques into the design and siting of development and landscaping to improve community health, urban heat, water management, environmental performance, biodiversity and local amenity and to minimise energy consumption.
Performance Outcome (PO) and Designated Performance Feature (DPF) criteria	
PO 1.5; PO 6.1 & DPF 6.1; PO 7.2; PO 7.4; PO 7.5; PO 7.6; PO 7.7; PO 8.1 & DPF 8.1	

In accordance with the intent of PO 1.5, the proposal provides storage capacity for the landowners' business, mitigating the negative visual impact of vehicles and equipment stored outdoors. As previously mentioned, the siting of the building would also restrict views from the public view.

PO 6.1 is not applicable, as the proposal does not include an on-site waste treatment system.

There is a dedicated space for parking of up to five vehicles provided on site, although it is understood this would not be used for vehicle/equipment storage. Occasionally, it would provide parking for up to one employee when equipment is required to be retrieved from the site for the day's work. The 'Carparking Appearance' Performances Outcomes would not be contravened by the proposal.

Infrastructure and Renewable Energy Facilities

Desired Outcomes	
DO 1	Efficient provision of infrastructure networks and services, renewable energy facilities and ancillary development in a manner that minimises hazard, is environmentally and culturally sensitive and manages adverse visual impacts on natural and rural landscapes and residential amenity.
Performance Outcome (PO) and Designated Performance Feature (DPF) criteria	
PO 11.1 & DPF 11.1; PO 12.1 & DPF 12.1; PO 12.2 & DPF 12.2	

The subject land has access to SA Water mains, although the proposed building would not require connection. Nor does the proposal generate any wastewater which would require on-site treatment. No Performance Outcomes are conflicted with.

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Interface between Land Uses

Desired Outcomes	
DO 1	Development is located and designed to mitigate adverse effects on or from neighbouring and proximate land uses.
Performance Outcome (PO) and Designated Performance Feature (DPF) criteria	
PO 1.2; PO 2.1 & DPF 2.1; PO 4.1 & DPF 4.1; PO 4.2; PO 5.1; PO 5.2; PO 6.1	

The proposal would emit noise from two main sources: vehicle start-up and their associated movements. As operations are conducted offsite, start-ups should be limited to an occurrence of once per day, while vehicle movements should also be adequately restrained. It is also acknowledged that the building's main openings are appropriately orientated to the south, which would funnel noise away from the direction of the dwelling of 106 Longwood Road, which itself is over 50m from the store building. These procedures are proposed to be confined within the hours of operation, which are 7am to 5pm, Monday to Saturday. On these bases, relevant POs 2.1, 4.1, and 4.2 are considered to satisfied.

Every so often, the landowner intends to reclaim timber and mulch generated through their work for their own domestic purposes at the subject land. To regulate this, recommended condition 11 would prevent the stockpiling of such materials on the land beyond a domestic manner, to the satisfaction of Council. Beyond this, as the landowners' business functions offsite, interactions with their staff at the subject land should be minimal, with a maximum of one employee occasionally required to assist with the loading of equipment for the day's work. Recommended condition 10 directs that employee movements shall also be restricted to be within the hours of operation. These aspects of the proposal contribute to minimising adverse impacts to adjacent sensitive receivers, as per PO 1.2.

Regarding PO 5.1 and 5.2, the proposal does not incorporate chimneys or exhaust flues, and would otherwise have a neutral effect upon air quality in the locale. Potential light spill impacts could be addressed as a condition of approval (refer recommended condition 5), which is required by PO 6.1.

Transport, Access and Parking

Desired Outcomes	
DO 1	A comprehensive, integrated and connected transport system that is safe, sustainable, efficient, convenient and accessible to all users.
Performance Outcome (PO) and Designated Performance Feature (DPF) criteria	
PO 1.4 & DPF 1.4; PO 3.1 & DPF 3.1; PO 3.5 & DPF 3.5; PO 5.1 & DPF 5.1; PO 6.1 & DPF 6.1; PO 6.6 & DPF 6.6;	

The proposal does not include any new driveway crossovers to Longwood Road, with the development capable of being accessed via a lawfully existing main access point. While on-site car parking is not integral to the nature of the proposal, there would be more than sufficient space for vehicles travelling on site (Table 1 – General Off-Street Car Parking Requirements, a store requires only 0.5 spaces per 100m² of total floor area). Overall, there are no variances had by the proposed development against any relevant PO of this policy suite.

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CONSIDERATION OF SERIOUSLY AT VARIANCE

The proposal is not considered to be seriously at variance with the provisions of the Planning & Design Code.

Store buildings and their associated activities are generally envisaged in the Productive Rural Landscape Zone. Although the vehicles and equipment intended to be stored are not directly associated with any primary production activity on the land, this is mitigated by several factors. The building is of a modest scale and intensity commensurate to the subject land, while its limited visual profile would be broken-up and obscured in part due to the surrounding mature vegetation and associated earthworks. Views of the proposal from any public vantage would also be very limited. And while it does not support primary production on the land, it does not supplant any such use or reduce that future capability. The proposal generally accords with all applicable Overlay policies, the most imperative being the Hazards (Bushfire – High Risk), Native Vegetation, and Scenic Quality Overlays. The design and overall nature of the proposal, including its operating hours and procedures, contribute to satisfying an important selection of Performance Outcomes the General Development Policies

CONCLUSION

The proposal is for the construction shed for the storage of vehicles and equipment, including the parking of a truck and trailer exceeding 3000kg in weight, in support of the landowners' business, *S.A. Tree Services*. The site area is located within the Productive Rural Landscape Zone, amongst a variety of differently sized rural living allotments where primary production is mostly absent.

The application does not propose day-to-day operations being conducted on-site by the business, as the nature of their services requires off-site attendance. The store building has the benefit of enhancing the visual appearance of the land by mitigating the keeping of vehicles and equipment outside, by providing adequate space in an enclosed building of a modest size.

The proposal is not considered to be seriously at variance with any of the applicable policies of the Planning & Design Code, adequately addressing all relevant Zone, Overlays, and General Development provisions.

Standard conditions controlling the proposal's external appearance, stormwater management, light spill, hours of operation, and more are recommended.

RECOMMENDATION

It is recommended that the Council Assessment Panel resolve that:

- 1) Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and**
- 2) Development Application Number 24011855 David Ellis for a Store building for the storage of equipment and vehicles including the parking of a truck and trailer exceeding 3000kg in weight at 108 Longwood Road, Heathfield is GRANTED Planning Consent subject to the following conditions:**

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CONDITIONS

Planning Consent

- 1) The development granted shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below.**
- 2) The external finishes to the building herein approved shall be as follows:**
 - WALLS: Colorbond 'Woodland Grey' or similar**
 - ROOF: Colorbond 'Woodland Grey' or similar**
- 3) Prior to commencement of work, straw bales (or other soil erosion control methods as approved by Council) shall be placed and secured below areas of excavation and fill to prevent soil moving off the site during construction.**
- 4) All roof runoff generated by the development hereby approved shall be managed as shown on the site plan by Design Vision Consulting (received by Council 23 July 2024) within one month of the roof cladding being installed.**
- 5) All external lighting associated with the store use shall be restricted to that necessity for security purposes only and shall be directed away from residential development and, shielded if necessary to prevent light spill causing nuisance to the occupiers of nearby residential properties.**
- 6) No washing of machinery and equipment associated with the tree service business shall occur on site**
- 7) Bulk storage of chemicals, oils and lubricants shall not be undertaken on-site and oil/fluid replacement for vehicles and machinery shall be undertaken off-site only.**
- 8) Operating hours shall be Monday to Saturday 7:00am to 5:00pm. Movement of trucks and heavy vehicles (including employee vehicles) associated with the tree service business shall be limited to these hours of operation. Vehicles must not be started earlier than 7:00am.**
- 9) A maximum of one (1) truck, one (1) woodchipper, one (1) stump grinder, one (1) mini-excavator and two (2) trailers associated with the tree service business shall be kept on the site at any one time.**
- 10) All vehicles and equipment shall be parked or stored in the approved store building.**
- 11) No mulch or timber from the tree service business shall be stockpiled on the site to the reasonable satisfaction of Council.**
- 12) Use of the woodchipper, chainsaws and other equipment associated with the tree service business shall not occur on-site.**

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ADVISORY NOTES

General Notes

- 1) No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.
- 2) Appeal rights – General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.
- 3) This Planning Consent is valid for a period of twenty-four (24) months commencing from the date of the decision, subject to the below or subject to an extension having been granted by the relevant authority. If applicable, Building Consent must be obtained prior to expiration of the Planning Consent.
- 4) Where an approved development has been substantially commenced within 2 years from the operative date of approval, the approval will then lapse 3 years from the operative date of the approval (unless the development has been substantially or fully completed within those 3 years, in which case the approval will not lapse).
- 5) This consent is strictly limited to works on the subject land. This consent does not permit any alteration to road verge. Works including tree pruning/removal, earthworks, kerbing, storage of material or any alteration to the verge or a reserve requires a separate approval under Section 221 of the Local Government Act 1999. For more information regarding this process please visit: <https://www.ahc.sa.gov.au/development/roads-and-construction/authorisation-to-alter-a-public-road>
- 6) The applicant is reminded of their general environmental duty, as required by Section 25 of the Environment Protection Act 1993, to take all reasonable and practical measures to ensure that the activities on the whole site, including during construction, do not pollute the environment in a way which causes, or may cause, environmental harm.

OFFICER MAKING RECOMMENDATION

Name: Sebastien Paraskevopoulos
Title: Statutory Planner

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ITEM 8.2

DEVELOPMENT NO.:	24031535
APPLICANT:	Development Holdings Pty Ltd
ADDRESS:	35 PARATOO RD STIRLING SA 5152
NATURE OF DEVELOPMENT:	Variation to Development Application 23018174 - Addition of fire access track and alterations to retaining walls, staircase, fencing, carpark and vegetation clearance, deck, building height and form, and internal alterations
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Rural Neighbourhood <p>Subzones:</p> <ul style="list-style-type: none"> • Adelaide Hills <p>Overlays:</p> <ul style="list-style-type: none"> • Hazards (Bushfire - Medium Risk) • Hazards (Flooding - Evidence Required) • Mount Lofty Ranges Water Supply Catchment (Area 2) • Native Vegetation • Prescribed Water Resources Area • Regulated and Significant Tree <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Minimum Site Area (Minimum site area is 2,000 sqm)
LODGEMENT DATE:	24 Sept 2024
RELEVANT AUTHORITY:	Assessment Panel at Adelaide Hills Council
PLANNING & DESIGN CODE VERSION:	P&D Code (in effect) Version 2024.17 12/9/2024
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	No
RECOMMENDING OFFICER:	Tim Mason Statutory Planner
REFERRALS STATUTORY:	None
REFERRALS NON-STATUTORY:	None

CONTENTS:

ATTACHMENT 1:	Application Documents	ATTACHMENT 4:	Approved Plans – Development Application 23018174
ATTACHMENT 2:	Subject Land Map	ATTACHMENT 5:	CAP Report & Minutes 10 January 2024
ATTACHMENT 3:	Zoning Map	ATTACHMENT 6:	Relevant P & D Code Policies

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DETAILED DESCRIPTION OF PROPOSAL:

The proposal seeks to vary Development Application 23018174 which is for a two storey Child Care Facility with attached signage, retaining walls, combined fence & retaining walls, decking & associated car-parking. This variation seeks to vary the original application as to address changes to the National Construction Code which requires a fire access track around the perimeter as established in Specification 43: Bushfire Protection for Certain Class 9 Buildings (S43C14). The introduction of this fire track around the perimeter of the building introduces incidental changes to the proposed Child Care Facility, including modifications to the carpark, additional native vegetation clearance and alterations to retaining walls.

A detailed breakdown of the variation proposal is provided below:

- A 4m wide all-weather fire access track around the perimeter of the proposed Child Care Facility.
- Additional native vegetation clearance which includes nine (9) *Eucalyptus obliqua* (messmate stringybark) and one (1) *Acacia melanoxylon* (blackwood) as well as the original seventeen (17) *Eucalyptus obliqua* and three (3) *Acacia melanoxylon* included in the original application (total of 30 trees). All trees to be cleared to facilitate the proposed fire access track are considered to be native vegetation and excluded from the definition of a Regulated Tree in accordance with Section 3F(4)(d) of the *Planning Development and Infrastructure (General) Regulations 2017*.
- Alterations to the retaining walls to facilitate the perimeter fire access track. As well as alterations to the retaining walls to facilitate the altered carpark design.
- Alterations to the proposed carpark as to accommodate the proposed fire access track, including repositioning the carpark 10.88m northwest on the allotment and reconfiguring the parking spaces. This does not result in any changes to the capacity of the carpark or the crossover from the public road.
- The deck to be attached to the front of the building has been reduced in size and reconfigured.
- Relocation of the proposed bin store to the front boundary of the allotment and an additional 1.8m high fence to enclose this facility.
- Addition of an external staircase connecting the carpark to the first floor of the Child Care Facility. This does not modify the existing staircase or elevator located inside the building.
- An increase to the maximum roof height of the building from 8.72m to 9.00m, resulting in an approximate increase of 0.28m.
- The northeastern wall of the proposed Child WC on the first floor has been extended north as to facilitate an increase to the total floor area of the building by 2.00m².

Alterations to the front elevation of the building including adjustments to the ground floor window and doors, however this does not change the access of the building. The proposal does not vary the operating hours, maximum capacity of children or staff of the proposed Child Care Facility nor does it modify the proposed advertising signage.

The amended plans and application information are included as **Attachment 1 – Application Documents**.

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BACKGROUND:

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
10 January 2024	23018174	Two storey child care facility with attached signage, retaining walls, combined fence & retaining walls, decking, & associated car-parking

There are no previous Development Applications on the subject land recorded with Council prior to Development Application 23018174.

The original plans previously approved by CAP are included in **Attachment 4**.

The CAP Report and Minutes from the meeting on 10 January 2024 are included in **Attachment 5**.

SUBJECT LAND & LOCALITY:

Site Description:

Location reference: 35 PARATOO RD STIRLING SA 5152

Title ref.: CT 5767/919

Plan Parcel: F210897 AL111

Council: ADELAIDE HILLS COUNCIL

The subject land is a triangular shaped allotment, with an area of 1.04 hectares. It is wider at the front, with a frontage to Paratoo Road of 100 metres.

The land is approximately 15m south of the intersection of Paratoo Road and Old Mount Barker Road, 50m north of the intersection of Paratoo Road and Yam Street and 200m north of the intersection of Paratoo Road and Braeside Road.

Old Mount Barker Road is the zone boundary, with land on the northern side of Old Mount Barker Road being within the Productive Rural Landscape Zone.

The use of the land is residential, comprised of a single storey detached dwelling with associated outbuildings. The dwelling is sited away from the road frontage, near the northern side boundary. It is surrounded by a cluster of trees at the rear, with garden between the dwelling and the front boundary.

The land is sloping, with a north-south cross-fall of approximately 1 in 6 through the development area. It is serviced by mains water, sewer and electricity supply. There is an easement at the rear of the land, which is unaffected by the proposal.

Paratoo Road is sealed Council roadway, provided in-part with upright kerb & gutter. It is a two-way road until near the southern boundary of the subject land, where at this point it narrows to a one-way road. Vehicles can only travel north past the frontage of the subject land.

The adjoining land to the south is the Stirling East Primary School, which has a main frontage to Braeside Road. A staff and student drop-off and pick-up car park is located on the Paratoo Road frontage. Entry to this car park is at the southern end and the exit point is at the northern end of the subject land. Road signage restricts vehicles leaving the car park from turning right. Road signage also restricts vehicles turning right onto Yam Street from Paratoo Road.

There is a sealed footpath in front of the primary school frontage, which turns into a compacted gravel footpath in front of the subject land. The footpath in front of the subject land is approximately 6m wide.

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Road signage prevents on-street parking in front of the primary school frontage between 3:00pm and 4:00pm, however there are two unrestricted indented off-street parking spaces available near the southern boundary of the subject land. There is an un-signalised pedestrian crossing just below the indented street parking spaces and pedestrian warning signs on the approach to the primary school.

Aside from the primary school, the surrounding land use is residential comprised of single storey and two storey detached dwellings generally set well back from the boundaries and surrounded by vegetation and landscaped gardens. The area of these residential allotments is generally around 2000-3000 square metres.

The subject land is identified on **Attachment 2 – Subject Land Map**. The zoning is shown in **Attachment 3 – Zoning Map**.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
 - Deck: Code Assessed - Performance Assessed
 - Fence: Code Assessed - Performance Assessed
 - Child Care Facility: Code Assessed - Performance Assessed
 - Retaining wall: Code Assessed - Performance Assessed
 - Staircase: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
 - Code Assessed - Performance Assessed
- **REASON**
 - P&D Code

PUBLIC NOTIFICATION

- No
- **REASON –**

Each of the proposed modifications to the Child Care Facility are considered to be minor, the proposal is excluded from Public Notification in accordance with *Table 5 – Procedural Matters* as per the Rural Neighbourhood Zone. The proposed variations to the approved Child Care Facility are expected to maintain the intent of the approval in the context of the site and the proposed development as a whole. They are considered to be of a minor nature only as they are not expected to modify the intensity or nature of the approved land use, nor will the proposed variations unreasonably impact on the owners or occupiers of land in the locality.

AGENCY REFERRALS

- Native Vegetation Council

Pre-lodgement advice received from the Native Vegetation Council regarding the increase to the clearance of native trees required to facilitate the fire access track around the proposed Child Care Facility permits the clearance. The advice is contained in the application information and no further referral was necessary.

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INTERNAL REFERRALS

- None

PLANNING ASSESSMENT

Desired outcomes

Desired outcomes are policies designed to aid the interpretation of performance outcomes by setting a general policy agenda for a zone, subzone, overlay or general development policies module. Where a relevant authority is uncertain as to whether or how a performance outcome applies to a development, the desired outcome(s) may inform its consideration of the relevance and application of a performance outcome, or assist in assessing the merits of the development against the applicable performance outcomes collectively.

Performance outcomes

Performance outcomes are policies designed to facilitate assessment according to specified factors, including land use, site dimensions and land division, built form, character and hazard risk minimisation.

Designated performance features

In order to assist a relevant authority to interpret the performance outcomes, in some cases the policy includes a standard outcome which will generally meet the corresponding performance outcome (a designated performance feature or DPF). A DPF provides a guide to a relevant authority as to what is generally considered to satisfy the corresponding performance outcome but does not need to necessarily be satisfied to meet the performance outcome, and does not derogate from the discretion to determine that the outcome is met in another way, or from the need to assess development on its merits against all relevant policies.

A detailed assessment of the application has taken place against the relevant provisions of the Planning and Design Code (P & D Code) and this is provided below under a series of headings. A Policy Enquiry extract containing the relevant provisions of the P & D Code is contained in **Attachment 6 – Relevant P & D Code Policies**.

Rural Neighbourhood Zone

Desired Outcome	
DO1	Housing on large allotments in a spacious rural setting, often together with large outbuildings. Easy access and parking for cars. Considerable space for trees and other vegetation around buildings, as well as on-site wastewater treatment where necessary. Limited goods, services and facilities that enhance rather than compromise rural residential amenity.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Land Use & Intensity PO 1.1 & DTS/DPF 1.1, PO 1.2 & DTS/DPF 1.2, PO 1.3, PO 1.4	
Building Height PO 2.1	
Primary Street Setback PO 3.1 & DTS/DPF 3.1	
Side Boundary Setback PO 5.1 & DTS/DPF 5.1	
Rear Boundary Setback PO 6.1 & DTS/DPF 6.1	
Advertisements PO 10.1 & DTS/DPF 10.1	

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The provisions of the Rural Neighbourhood Zone predominately speak to the desired land use and built form of structures on the subject land. The proposed variation seeks to increase the maximum roof height of the structure from 8.72m to 9.00m, an increase of approximately 0.28m. This variation is considered to be consistent with Designated Performance Feature 2.1 which supports a maximum building height of 9.00m in this Zone. Additionally, the proposed increase to the first-floor wet area by 2.00m² will result in a side boundary setback of 20.98m from the northern boundary. This is expected to maintain access around the building as well as the functionality of the adjoining play area without introducing any over shadowing or overlooking into the adjoining northern allotment. Given this, the variation to the scale of the building is not considered to vary the appropriateness of this building nor will it modify the intensity of activity of the previously approved Child Care Facility.

As part of the building assessment the proposal must address requirements under the National Construction Code and subsequently this has resulted the introduction of a fire access track as well as modifications to components of this proposal to facilitate this change, including variations to vegetation clearance, retaining walls, carparking and stormwater.

Desired Outcome 1 of the Zone anticipates development that accommodates *considerable space for trees and other vegetation around buildings*. The initial proposal had been considered to include design elements which minimised clearance of vegetation on the allotment and disturbances to the built form of the landscape, including the two-storey configuration of the primary building and siting on existing cleared land. However, the inclusion of the fire access track results in the required further clearance of 10 native trees.

The proposed development incorporates approximately 4,509.01m² of the subject land, being 43.56% of the 1.04ha site. This includes land to be used for the principal building, carpark, outside play areas and the fire access track. This allows for the remaining 56.44% of the allotment to remain as soft landscaping, facilitating the preservation of existing vegetation. This figure excludes land on the allotment to be used as play areas immediately surrounding the building. This is considered consistent with the Desired Outcome 1 of the Zone as the majority of the allotment will remain undeveloped.

The alteration to the carport results in modification to the waste storage at the front boundary including a 1.80m high fence to surround the bins as well as changes to retaining walls between the boundary and the carpark. These retaining walls will remain tiered to break up the vertical profile/mass of this structure and the proposed Colorbond fence is considered to be low in scale and incidental to the residential nature of the locality.

No changes to the previously approved advertising are proposed in conjunction with this application.

Adelaide Hills Subzone

Desired Outcome	
DO1	Additional residential and tourist accommodation that retains and embraces the values of the established mature vegetation as a defining characteristic of the area.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Land Use & Intensity PO 1.1 & DTS/DPF 1.1	

In the opinion of staff, the Subzone considers tourist accommodation as an additional desired commercial use in this part of the Rural Neighbourhood Zone. The Subzone is not viewed as aiming to restrict development to only residential and tourist accommodation development.

The additional clearance of vegetation on the subject land is considered unavoidable as to facilitate the fire access track. This track is considered to be an essential component of this land use. It is considered that this track has been sited as to minimise the clearance of vegetation on the allotment while allowing for the intended land use to function as previously approved.

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The variation to this application does not modify the two storey building, outdoor play spaces or car parking areas as to require any additional clearance of vegetation on the allotment.

Overlays

Hazards (Bushfire – Medium Risk) Overlay

Desired Outcome	
DO 1	Development, including land division responds to the medium level of bushfire risk and potential for ember attack and radiant heat by siting and designing buildings in a manner that mitigates the threat and impact of bushfires on life and property taking into account the increased frequency and intensity of bushfires as a result of climate change.
DO 2	To facilitate access for emergency service vehicles to aid the protection of lives and assets from bushfire danger.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Siting PO 1.1	
Built Form PO 2.1	

Unlike the Hazards (Bushfire – High Risk) Overlay, the Hazards (Bushfire – Medium Risk) Overlay does not specifically address Child Care Facility development.

However, with regard to Desired Outcome 2, the surrounding sealed, public road network facilitates emergency service access to the land and the car park area would provide on-site access to emergency service vehicles. This variation seeks to introduce a 4m wide fire access track which will facilitate a fire vehicle to operate at the rear of the building. This track will be accommodated by additional vegetation clearance which will buffer the facility from surrounding burning debris in the event of a bushfire.

Hazards (Flooding – Evidence Required) Overlay

Desired Outcome	
DO 1	Development adopts a precautionary approach to mitigate potential impacts on people, property, infrastructure and the environment from potential flood risk through the appropriate siting and design of development.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Flood Resilience PO 1.1 & DTS/DPF 1.1	

The proposed variation does not modify the finished floor level of the building which is to remain more than 300mm above top of kerb.

There are no nearby watercourses, and the land is not within a flood prone area.

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Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay

Desired Outcome	
DO 1	Safeguard Greater Adelaide’s public water supply by ensuring development has a neutral or beneficial effect on the quality of water harvested from secondary reservoirs or diversion weir catchments from the Mount Lofty Ranges.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Water Quality PO 1.1 & PO 1.2 & DTS/DPF 1.2	
Wastewater PO 2.1, DTS/DPF 2.1	
Stormwater PO3.1, PO3.3, PO3.9 & DTS/DPF3.9	
Landscapes and Natural Features PO4.1	

The proposal includes variations to the stormwater management detail; however, this does not modify the detention/retention of stormwater in rainwater tanks. Given this, no changes to the management of stormwater are anticipated.

The previous condition relating to the stormwater management is to be updated by an amended condition citing the most recent revision of plans (Refer recommended condition three (3)).

Native Vegetation Overlay

Desired Outcome	
DO 1	Areas of native vegetation are protected, retained and restored in order to sustain biodiversity, threatened species and vegetation communities, fauna habitat, ecosystem services, carbon storage and amenity values.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Environmental Protection PO 1.1 & DTS/DPF 1.1, PO 1.2, PO 1.4	

The proposal requires the clearance of an additional ten (10) native trees to facilitate the construction of the fire track. This consists of nine (9) *Eucalyptus obliqua* (messmate stringybark) and one (1) *Acacia melanoxylon* (blackwood). The original proposal sought the associated clearance of 17 *Eucalyptus obliqua* and three (3) *Acacia melanoxylon* trees (30 native trees total).

A supporting data report prepared by an accredited native vegetation consultant was included with the application and has categorised this clearance as ‘Level 2’. However, this is considered to be cumulative with the previous native vegetation clearance associated with this development which was categorised as ‘Level 3’.

While the cumulated impacts are considered to be clearance “Level 3”, this assessment did not require a referral to the Native Vegetation Council as the proposed clearance has since been assessed by this agency and submitted in accordance Section 123 of the *Planning, Development and Infrastructure Act 2016* as pre-lodgement advice.

The Native Vegetation Council has cited no additional notes or conditions are to be included in the assessment of the application beyond what was included in the original application.

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Two (2) additional trees have been referenced in the arborist's report (listed as trees 418 and 424) as requiring removal to facilitate construction of the fire access track, however they have not been included in the Native Vegetation Data Report as both are considered to be dead. Additionally, this status excludes these trees from requiring approval for clearance as regulated trees in accordance with Schedule 4 Section 18 (1)(e) or the *Planning, Development and Infrastructure (General) Regulations 2017*.

Performance Outcome 1.1 recognises that where development cannot practically avoid native vegetation clearance, clearance should be minimised. Given the requirement of the fire access track around the proposed Child Care Facility, it is considered that there would be no reasonable alternative solution to implement a fire track around the proposed building which does not require the clearance of existing vegetation. A separate arborist report advises that the associated native vegetation clearance is required to facilitate reasonable development of this site and this form of development 'might not otherwise be possible'.

This clearance is to be offset by an additional contribution of \$43,097.38 to the Native Vegetation Council's Significant Environmental Benefit Fund in addition to the \$9,235.30 previously approved by the Native Vegetation Council. This results in a cumulative offset of \$52,332.68 to be paid.

Prescribed Water Resources Area Overlay

Desired Outcome	
DO 1	Sustainable water use in prescribed water resources areas maintains the health and natural flow paths of surface water, watercourses and wells.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
N/A	

This Overlay is not relevant to the proposal as it relates to water taking activities such as horticulture and intensive animal husbandry or the alteration to a water body.

Regulated and Significant Tree Overlay

Desired Outcome	
DO 1	Conservation of regulated and significant trees to provide aesthetic and environmental benefits and mitigate tree loss.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Tree Retention and Health PO 1.1, PO 1.4	
Ground Work Affecting Trees PO 2.1	

The ten (10) proposed trees to be cleared are considered to be "regulated" native vegetation and cannot be considered to constitute a Regulated or Significant Tree in accordance with Section 3F(4)(d) of the *Planning, Development and Infrastructure (General) Regulations 2017*. The two Regulated trees to be removed are considered to be dead and are excluded from requiring approval for clearance in accordance with Schedule 4 Section 18 (1)(e) or the *Planning, Development and Infrastructure (General) Regulations 2017*.

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General Development Policies

Advertisements

Desired Outcome	
DO 1	Advertisements and advertising hoardings are appropriate to context, efficient and effective in communicating with the public, limited in number to avoid clutter, and do not create hazard.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Appearance PO 1.1 & DTS/DPF 1.1, PO 1.3 & DTS/DPF 1.3, PO1.5	
Proliferation of Advertisements PO 2.3 & DTS/DPF 2.3	
Advertising Content PO 3.1 & DTS/DPF 3.1	

The proposed variation does not modify the two (2) non-illuminated signs attached to the front elevation, which will identify the name of the facility operator.

Clearance from Overhead Powerlines

Desired Outcome	
DO 1	Protection of human health and safety when undertaking development in the vicinity of overhead transmission powerlines.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Environmental Protection PO 1.1 & DTS/DP F1.1	

As part of their submission the applicant has declared that the development will not be contrary to the regulations prescribed for the purposes of section 86 of the Electricity Act 1996. This is consistent with Designated Performance Feature 1.1.

Design

Desired Outcome	
DO 1	Development is: <ol style="list-style-type: none"> (1) contextual – by considering, recognising and carefully responding to its natural surroundings or built environment and positively contributes to the character of the immediate areas. (2) dural – fit for purpose, adaptable and long lasting. (3) inclusive – by integrating landscape design to optimise pedestrian and cyclist usability, privacy and equitable access, and promoting the provision of quality spaces integrated with the public realm that can be used for access and recreation and help optimise security and safety both internally and within the public realm for occupants and visitors.

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	(4) sustainable – by integrating sustainable techniques into the design and siting of development and landscaping to improve community health, urban heat, water management, environmental performance, biodiversity and local amenity and to minimise energy consumption.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
All Development PO 1.4 & DTS/DPF 1.4, PO 1.5	
Safety PO 2.1, PO2.3, PO 2.3	
Landscaping PO 3.1, PO 3.2	
Carparking Appearance PO 7.2, PO 7.3, PO 7.4, PO 7.5, PO 7.6, PO7.7	
Earthworks & Sloping Land PO 8.1 & DTS/DPF 8.1, PO 8.4, PO 8.5	
Fences and Walls PO 9.1 & PO 9.2 & DTS/DPF 9.2	
Massing PO 15.1	
Car Parking, Access and Manoeuvrability PO 19.2 & DTS/DPF 19.2, PO19.3 & DTS/DPF 19.3, PO 19.4 & DTS/DPF 19.4, PO19.5 & DTS/DPF19.5, PO 19.6 & DTS/DPF 19.6	
All Non-Residential Development – Water Sensitive Design PO 31.1, PO 31.2	

The proposal is considered to meet part a) of Desired Outcome 1 in that the design is considered to carefully respond to the natural surrounds and built environment. Vegetation retention is maximised, the two-storey component of the building is away from the adjoining residential property and the facility including associated fencing and retaining walls will be constructed of non-reflective materials and finished in a neutral colour scheme.

It is noted that the clearance of vegetation as part of this variation application has been minimised through a Performance Solution to the provisions of the NCC for a fire access track. The NCC requires that a fire access track have a *minimum unobstructed width of 6m* as to allow access for emergency services in the event of a bushfire. It is anticipated that a 4m width will continue to allow for this access in the event of an emergency while minimising necessary clearance, preserving the majority of vegetation to the rear of the allotment.

Additionally, the clearance on site is to be supplemented by the inclusion of replacement landscaping onsite, providing screening of the building from adjoining allotments and the primary street. This will remain substantially the same as previously approved, including maintaining the same combination of plantings to be used, including a selection from Council’s Native Habitat for Landscaping Guide.

Retaining walls and earthworks supporting the fire access track exceed the desired 1m depth sought by Designated Performance Feature 8.1, including a maximum wall height of 2.10m at the southwestern corner of the building. The majority of these retaining walls are not expected to be visible from the adjoining residential property or the primary street. Additionally, these works are considered to be unavoidable as to facilitate the proposed Child Care Facility without resulting in additional clearance of native vegetation on the subject land.

The proposed retaining wall attached to the front of the building is to be reconfigured as it no longer acts as a secure storage area for waste on the subject land. Additionally, this results in a reduction in scale of the proposed deck.

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Furthermore, regarding the car park, Performance Outcome 7.2 seeks for car parking spaces to be located and designed to minimise impacts on adjacent receivers. The proposed alteration to the carpark is considered to substantially maintain the form and nature of this component of the proposal. The proposed access from Paratoo Road is to remain the same and the total number of carparks will not alter. The reconfiguration of this component results in alterations to supporting retaining and earthworks, decreasing the height of retaining walls at the southern end of the carpark and increasing the maximum height of northern retaining walls to 1m. However, these changes also introduce a wall of 2.6m to facilitate a proposed staircase to the first floor of the Child Care Facility.

The proposed gross-pollutant trap is to remain included in the design of the car park, which achieves Performance Outcome 31.1.

The previously approved waste storage area is to be repositioned to the front of the allotment and will be enclosed in a 1.80m high Colorbond fence included at the front of the building on the ground level.

Infrastructure and Renewable Energy Facilities

Desired Outcome	
DO 1	Efficient provision of infrastructure networks and services, renewable energy facilities and ancillary development in a manner that minimises hazard, is environmentally and culturally sensitive and manages adverse visual impacts on natural and rural landscapes and residential amenity.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Water Supply PO 11.1 & DTS/DPF 11.1	

The proposed variation does not result in changes to mains water connection which will remain serviced by mains water supply as sought by Performance Outcome 11.1.

Interface between Land Uses

Desired Outcome	
DO 1	Development is located and designed to mitigate adverse effects on or from neighbouring and proximate uses.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
General Land Use Compatibility PO 1.2	
Hours of Operation PO 2.1 & DTS/DPF 2.1	
Activities Generating Noise or Vibration PO 4.1 & DTS/DPF 4.1, PO 4.2	
Light Spill PO 6.1, PO 6.2	

The proposed variation does not modify the intensity of activity or operating hours of the proposed Child Care Facility which will remain at 6:30am to 6:30pm, Monday to Friday as previously conditioned. Additionally, this proposal does not introduce or modify the anticipated level of noise or light spill generated by the development.

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Site Contamination

Desired Outcome	
DO 1	Ensure land is suitable for the proposed use in circumstances where it is, or may have been, subject to site contamination.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO 1.1 & DTS/DP F1.1	

The proposed Child Care Facility use is not a more sensitive use than the existing residential use of the land. Therefore, the land is considered suitable for its intended use with regard to the risk of site contamination and site history investigation information was not requested. This is in accordance with Practice Direction 14.

Transport, Access and Parking

Desired Outcome	
DO 1	A comprehensive, integrated and connected transport system that is safe, sustainable, efficient, convenient and accessible to all users.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Movement Systems PO 1.1, PO 1.4	
Sightlines PO 2.2	
Vehicle Access PO 3.1 & DTS/DP F3.1, PO 3.3, PO 3.4, PO 3.5 & DTS/DPF3.5, PO 3.6, PO3.8	
Access for People with Disabilities PO 4.1	
Vehicle Parking Rates PO5.1 & DTS/DPF5.1	
Vehicle Parking Areas PO 6.2, PO 6.4, PO 6.5	

The proposed variation to the proposed carpark will result in a setback from the southern side boundary of approximately 12.62m to facilitate the southern access to the fire access track.

The proposed variation does not modify the location or width of the proposed crossover to the public road which remains in the same location as the existing cross-over to the subject land. Additionally, this proposal does not modify the maximum capacity of this carpark which remains at 33 spaces. Performance Outcome 5.1 and corresponding Designated Performance Feature 5.1 seek for sufficient on-site car parking with regard to Transport, Access and Parking Table 1 – General Off-Street Car parking Requirements. For a child care centre Table 1 seeks the provision of 0.25 parking spaces per child, which for this proposal would mean the provision of 32 parking spaces.

The previous condition relating to the cross-over & kerb and footpath alterations is to be updated by an amended condition siting the most recent revision of plans (Recommended condition two (2)).

CONSIDERATION OF SERIOUSLY AT VARIANCE

The variation proposal is not considered to be seriously at variance with the Provisions of the Planning & Design Code. The Code envisages complimentary non-residential development which supports the residential amenity of the locality while preserving the character and amenity of the locality. The proposed variation to Development Application 23018174 facilitates the development of the previously approved Child Care Facility in accordance with the provisions of the National Construction Code while minimising disruptions to the existing landscape and native vegetation. All proposed clearance of native vegetation on this allotment has previously been supported by the Native Vegetation Council. Additionally, additional earthworks required to facilitate the proposed fire access track are to be substantially screened by the Child Care Facility from the primary street and assist in minimising any required clearance of native vegetation.

CONCLUSION

The proposal is for a variation to the construction of a Child Care Facility in the Rural Neighbourhood Zone to facilitate a fire access track as established in Specification 43: Bushfire Protection for Certain Class 9 Buildings (S43C14) of the National Construction Code.

The proposed variation is not considered to increase the approved intensity of activity on the subject land and maintains the approved capacity, hours of operation, management of lighting and noise generated from associated plant equipment. The built form and land use will continue to achieve all the performance outcomes of the Zone that speak directly to non-residential development.

The proposal recommends alternate conditions which update previous conditions relating to the carpark crossover and stormwater management utilising the varied plans.

The proposed vegetation clearance and addition earthworks and retaining are considered to be appropriate as to facilitate the reasonable development of this site while minimising disruption to the existing landscape.

RECOMMENDATION

It is recommended that the Council Assessment Panel resolve that:

- 1) Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and**
- 2) Development Application Number 24031535 by Development Holdings Pty Ltd for the variation to Development Application 23018174 - Addition of fire access track and alterations to retaining walls, staircase fencing, carpark, vegetation clearance, deck, building height and form, and internal alterations at 35 Paratoo Road Stirling is GRANTED Planning Consent subject to the following conditions:**

CONDITIONS

Planning Consent

- 1) The development granted shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).**

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- 2) All solid waste shall be stored in closed containers with close fitting lids in the enclosed bin area shown on the approved site plan (202400038, Drawing A101 Rev. P11 dated 26/09/2024) prepared by On Architecture Pty Ltd. External contractors accessing the site for waste collection shall be provided with access to enclosed bin area to ensure waste is not stored in the car park area for collection.
- 3) The cross-over & kerb and footpath alterations, vehicle-parking spaces, driveways and manoeuvring areas shall be constructed in accordance with the approved site plan (202400038 Drawing A101, Rev. P11 dated 26/09/2024) prepared by On Architecture Pty Ltd and the approved stormwater drainage plan (drawing 220216-C201, Rev D dated 26/09/2024) prepared by CPR Engineers prior to the occupation of the child care facility. Clear visible line marking of vehicle parking spaces shall be completed prior to the occupation of the child care facility. The car park and line-marking shall thereafter be maintained in good condition at all times.
- 4) Plant equipment of the child care facility shall only be located within service yard area shown on the approved ground floor plan (202400038 drawing 207, Rev P6 dated 26/09/2024) prepared by On Architecture.
- 5) All roof run-off from the building and run-off from the outdoor play areas and car park shall be managed in accordance with the approved stormwater management plan (drawing 220216-C201, Rev D dated 26/09/2024) prepared by CPR Engineers.
- 6) The works in relation to the trees, outlined in the Arboricultural Impact Assessment and Tree Protection Assessment Plan prepared by Ecological Tree Consulting and submitted as part of this application as a strategy for management of the trees are to be undertaken simultaneously with any building works on the site under the direction of the project arborist.
- 7) Except where varied by this authorisation, all other conditions, plans and details relating to Development Authorisation 23018174 continue to apply to this amended authorisation.

ADVISORY NOTES

General Notes

- 1) No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.
- 2) Appeal rights – General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.
- 3) This Planning Consent is valid for a period of twenty-four (24) months commencing from the date of the decision, subject to the below or subject to an extension having been granted by the relevant authority. If applicable, Building Consent must be obtained prior to expiration of the Planning Consent.
- 4) Where an approved development has been substantially commenced within 2 years from the operative date of approval, the approval will then lapse 3 years from the operative date of the approval (unless the development has been substantially or fully completed within those 3 years, in which case the approval will not lapse).

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OFFICER MAKING RECOMMENDATION

Name: Tim Mason

Title: Statutory Planner